

AA 394-99
VAR

Rosenberg, Sarah
99-0287

MSA - S1829 - 154

Letter RC
7-28-99

394-99

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SEP 28 1999

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 1999-0287-V

IN RE: **SARAH ROSENBERG**

FIRST ASSESSMENT DISTRICT

DATE HEARD: SEPTEMBER 14, 1999

ORDERED BY: **STEPHEN M. LeGENDRE**, ADMINISTRATIVE HEARING OFFICER

ZONING ANALYST: **LAWRENCE BURKINS**

DATE FILED: **SEPTEMBER 24**, 1999

PLEADINGS

Sarah Rosenberg, the applicant, seeks a variance (1999-0287-V) to permit an addition with disturbance to steep slopes on property located along the east side of Summit Court, east of Maple Leaf Drive, Edgewater.

PUBLIC NOTIFICATION

The case was advertised in accordance with the provisions of the County Code. Ms. Rosenberg testified that the property was posted for 14 days prior to the hearing.

FINDINGS AND CONCLUSIONS

The applicant owns a single-family residence located at 468 Summit Court, in the subdivision of Loch Haven Beach, Edgewater. The property comprises 32,025 square feet and is zoned R-5 residential with a Chesapeake Bay Critical Area classification as Limited Development Area (LDA). The applicant seeks to construct a solarium and deck addition over steep slopes.

The Anne Arundel County Code, Article 28, Section 1A-105(c) prohibits development on 15 percent or greater slopes in the LDA. Accordingly, the proposal necessitates a variance to build on steep slopes.

Lawrence Burkins, Administrator of Current Planning, testified that most of the rear yard is steeply sloped, thereby limiting the ability to further develop the site absent a variance. Approximately half of the proposed addition extends over

the slope, with disturbance for the footers. Although he recognized the need for relief, he questioned the extent of the variance. He recommended that the addition be reduced from 18' X 22' to 12' X 22'.

Ms. Rosenberg testified that the proposed addition incorporates a portion of the existing deck and stairs. The footers are sited in a level area 5-10 feet from the top of steep slopes.

The standards for granting variances are contained in Section 11-102.1. Under subsection (b), for a property in the Critical Area, a variance to the Critical Area program requirements may be granted if (1) due to features of the site or other circumstances, a strict implementation of the program would result in an unwarranted hardship to the applicant; (2) a literal interpretation of the program will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area; (3) the granting of the variance will not confer on the applicant any special privilege that would be denied by the program to other lands within the Critical Area; (4) the variance request is not based on circumstances resultant of actions by the applicant and does not arise from conditions relating to land use on neighboring property; and (5) the granting of the variance will not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the Critical Area and will be in harmony with the general spirit and intent of the program. Under subsection (c), any variance must be the minimum necessary to afford relief; and its grant may not alter the essential character of the neighborhood, substantially impair the appropriate use or

development of adjacent property, or be detrimental to the public welfare.

Upon review of the facts and circumstances, I find and conclude that the applicant is entitled to conditional relief from the code. For this Critical Area property, the extent of the steep slopes is not disputed. To deny the variance would deny a reasonable and significant use. I also find that the requested variance represents the minimum relief. The existing deck and stairs occupy approximately 40 percent of the area of the proposed addition. The only impact to steep slopes is from the installation of the footers, with the footers in a level area beyond the top of slope. There was nothing to suggest that the granting of the variance will alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property, or be detrimental to the public welfare. The approval shall be subject to the conditions in the Order.

ORDER

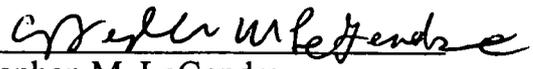
PURSUANT to the application of Sarah Rosenberg, petitioning for a variance to permit disturbance to steep slopes; and

PURSUANT to the advertising, posting of the property, and public hearing and in accordance with the provisions of law, it is this 24th day of September, 1999,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicant is hereby **granted** a variance to permit disturbance to steep slopes in accordance with the site plan.

The foregoing variance is subject to the following conditions:

1. No posts or pilings may be installed on steep slopes.
2. The posts or pilings shall be hand dug.
3. The applicant shall provide mitigation in the form of native plantings at a 3:1 ratio for the new disturbance in the expanded buffer.


Stephen M. LeGendre
Administrative Hearing Officer

NOTICE TO APPLICANT

Within thirty (30) days from the date of this Decision, any person, firm, corporation, or governmental agency having an interest therein and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals.

Further, Section 11-102.2 of the Anne Arundel County Code states:

A variance granted under the provisions of this Article shall become void unless a building permit conforming to the plans for which the variance was granted is obtained within one year of the grant and construction is completed within two years of the grant.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this order, otherwise they will be discarded.

Judge John C. North, II
Chairman



Ren Serey
Executive Director

**STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION**

45 Calvert Street, 2nd Floor, Annapolis, Maryland 21401
(410) 974-2426 Fax: (410) 974-5338

July 27, 1999

Mr. Kevin Dooley
Anne Arundel County Department of Planning and Code Enforcement
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Variance 1999-0287-V, Sarah Rosenberg

Dear Mr. Dooley:

Thank you for providing information on the above referenced variance application. The applicant is requesting a variance to permit an addition with less setbacks and Buffer than required and to disturb steep slopes. The property is designated LDA and is currently developed with a house, with an attached deck and a garage.

From the information provided, it appears that the addition will be constructed with minimal disturbance. This office does not oppose the variance requested, provided that impacts to the expanded Buffer are minimized as much as possible. Mitigation in the form of native plantings should be provided at a 3:1 ratio for the new disturbance in the expanded Buffer.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

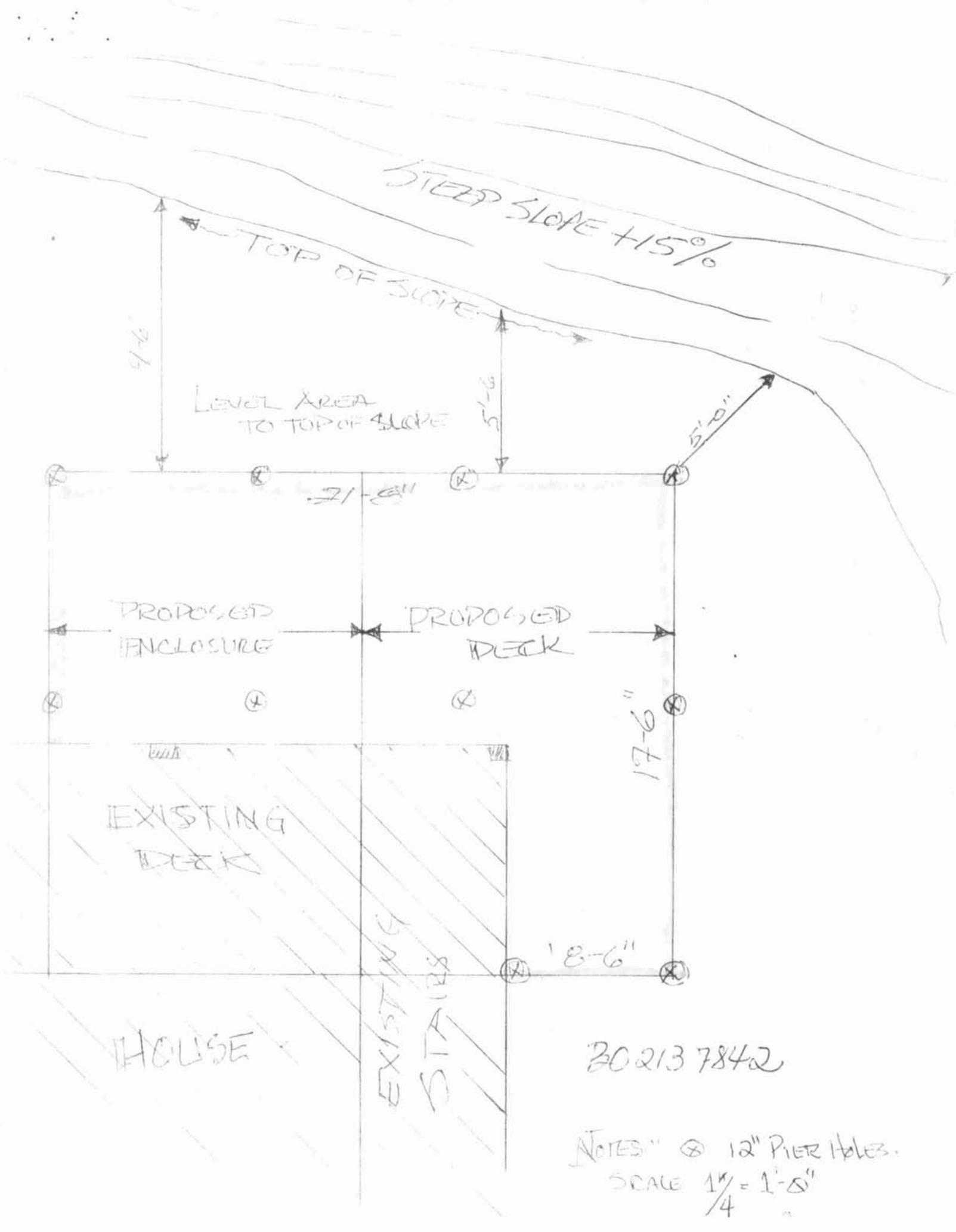
LeeAnne Chandler
Natural Resources Planner

cc: AA394-99

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY FOR DEAF ANNAPOLIS-974-2609 D.C. METRO-586-0450





202137842

NOTES: ⊗ 12" PIER HOLES.
 SCALE 1/4" = 1'-0"

CHESAPEAKE BAY CRITICAL AREA COMMISSION
 45 CALVERT STREET, 2ND FLOOR
 ANNAPOLIS, MD 21401

NOTIFICATION OF PROJECT APPLICATION

Jurisdiction: ANNE ARUNDEL Date: _____

Name of Project (site name, subdivision name, or other): LOCH HAVEN BEACH

Local case number: _____

Project location/Address: 468 SUMMIT COURT, EDGEWATER MD
 # 1450-0004-0100 TAX ACCT.

Tax map# 19 Block# P Lot# _____ Parcel# 2

Type of application:
 (Select all applicable)

- SUBDIVISION
- SITE PLAN
- VARIANCE
 Buffer Slope x
 Imp.Surf. x Other
- SPECIAL EXCEPTION
- CONDITIONAL USE
- REZONING
- GRADING PERMIT
- BLDG PERMIT
- INTRAFAMILY
- GROWTH ALLOCATION

Type of Project:
 (Select all applicable)

- RESIDENTIAL
- COMMERCIAL
- WATER DEPENDENT FACILITY/PIER/MARINA
- INDUSTRIAL
- MIXED USE
- REDEVELOPMENT
- SHORE EROSION PROTEC.
- AGRICULTURE
- OTHERS _____
 c.g. PUD

Current Use:
 (Select all applicable)

- COMMERCIAL
- RESIDENTIAL
- AGRICULTURE
- FOREST/BUFFER/ WOODLAND
- INDUSTRIAL
- INSTITUTIONAL
- OPEN SPACE/RECRE.
- SURFACE MINING
- VACANT
- WATER DEPENDENT FACILITY/PIER/MARINA

Describe Proposed use of project site: ENLARGE EXISTING DECK & ENCLOSE
1/2 OF NEW AREA WITH SOLARIUM, AS FAMILY ROOM

SITE INVENTORY OF AREA ONLY IN THE CRITICAL AREA

TOTAL ACRES IN CRITICAL AREA: 32,025.4

IDA ACRES	_____	AREA DISTURBED:	<u>0</u>
LDA ACRES	_____	# LOTS CREATED:	<u>0</u>
RCA ACRES	_____	# DWELLING UNITS:	<u>0</u>

AGRICULTURAL LAND: _____

EXISTING FOREST/WOODLAND/TREES: 100% FOREST/WOODLAND/TREES REMOVED: 0%
 FOREST/WOODLAND/TREES CREATED: 0%

EXISTING IMPERVIOUS SURFACE: 2953.4 PROPOSED IMPERVIOUS SURFACE: 251
 TOTAL IMPERVIOUS SURFACE: 3204

GROWTH ALLOCATION DEDUCTED: _____

RCA to LDA: _____ RCA to IDA: _____ LDA to IDA: _____

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JUL 26 1999

Local Jurisdiction Contact person: _____

Telephone number: _____

Response from Commission required by: _____

Hearing Date: _____

CHESAPEAKE BAY
 CRITICAL AREA COMMISSION

CRITICAL AREA COMMISSION
CHEAPSAKE BAY

JUL 26 1999

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